IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.6266 OF 2005

Vipor Chemicals Pvt. Ltd. ..Petitioner.

V/s.

The Union of India & Ors. ..Respondents.

Mr.Prakash Shah i/b. PDS Legal for petitioner.

Mr.P.S.Jetly with C.J.Joy for respondents.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 21ST SEPTEMBER, 2005.

P.C. :-

1. Rule, returnable forthwith.

2. Mr.Jetly waives service for the respondents.

3. Heard finally with the consent of the parties. Perused petition with relevant documents.

4. The impugned order dated 3rd March, 2005 passed by the Joint Commissioner of Customs, Chief Commissioner's office, Mumbai-1 is a non speaking order. The order does not convey the reasons in support of the view taken. It is also not in dispute that the impugned order has been passed without hearing the petitioner. Thus the impugned order is clearly in breach of principles of natural justice. Needless to mention that the order must be self explanatory and should not keep the higher Court guessing for the reasons. Reasons provide vital link between conclusion and evidence. That vital link is a safeguard against

arbitrariness and prejudice. It is a tool for judging the validity of the order.

5. It needs no emphasise that whenever the order is to entail civil consequences, then, it is all the more necessary to hear the party and pass the reasoned order. Thus, on both counts the impugned order suffers from breach of principles of natural justice, as such it needs to be set aside.

6. In the result, the impugned order is quashed and set aside. The matter is remanded back to the authority concerned with directions to hear the matter as expeditiously as possible and at any rate within a period of 6 weeks from the date of receipt of order. The petitioner undertakes to communicate this order and further undertakes to appear before the concerned authority on 3rd October, 2005. On this date or any other suitable date convenient to the adjudicating authority, matter may be heard and disposed of in accordance with law.

7. Needless to mention that the notice issued under section 72(2) of the Customs Act, 1962 incorporated at Exhibits A-1, Y-2 & Y-3 shall remain in abeyance until the said matter is adjudicated upon by the concerned authority on its own merits. All rival contentions are kept open.

8. Rule is made absolute in terms of this order with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)